

## HOUSE BILL NO. 107

INTRODUCED BY B. EGGERS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE EQUITABLE DISTRIBUTION OF FEDERAL SPORTING GOODS EXCISE TAX AID IN SPORT FISH RESTORATION AND FEDERAL AID IN WILDLIFE RESTORATION PROGRAM REVENUE BETWEEN THE STATE AND MONTANA TRIBAL GOVERNMENTS FOR WILDLIFE MANAGEMENT AND FISH MANAGEMENT PURPOSES; ~~REQUIRING THAT~~ AUTHORIZING EXPENDITURE OF UP TO 7 PERCENT OF THE FEDERAL SPORTING GOODS EXCISE TAX AID IN SPORT FISH AND WILDLIFE RESTORATION PROGRAM REVENUE THAT IS RETURNED AVAILABLE TO THE STATE BE SPENT BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS ON TRIBAL WILDLIFE AND FISH MANAGEMENT PROGRAMS; CREATING THE TRIBAL NATURAL RESOURCES COUNCIL AND PRESCRIBING COUNCIL MEMBERSHIP AND DUTIES; PROVIDING THAT THE COUNCIL ~~DETERMINE~~ RECOMMEND DISTRIBUTION OF STATE-FUNDED PROJECTS FOR TRIBAL WILDLIFE AND FISH MANAGEMENT PROGRAMS ~~AND ENSURE ACCOUNTABILITY FOR THE PROJECTS~~; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, the recreationists of Montana, both on and off of reservations, pay federal excise taxes on sporting goods; and

WHEREAS, a portion of the federal excise taxes on sporting goods paid in Montana is ~~returned~~ APPORTIONED to the state and is administered by the Department of Fish, Wildlife, and Parks, earmarked for purposes of wildlife and fish management in Montana; and

WHEREAS, the various tribal governments of Montana also maintain programs of wildlife and fish management for the benefit of Montana wildlife and fish on reservations, ~~but presently receive none of the federal excise tax revenue that is returned to the state~~; and

WHEREAS, wildlife and fish management on reservations would be greatly enhanced if the tribes were to receive part of the tax revenue for tribal management programs; and

WHEREAS, as a matter of equity, Montana tribes are entitled to a portion of the federal excise tax revenue on sporting goods for tribal wildlife and fish management programs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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2        NEW SECTION. **Section 1. Equitable distribution of federal ~~sporting goods excise tax~~ AID IN SPORT**  
3 **FISH RESTORATION AND FEDERAL AID IN WILDLIFE RESTORATION PROGRAM revenue.** As part of its administrative  
4 duties, ~~upon receipt of money for wildlife or fish management based on the payment of federal sporting~~  
5 ~~goods excise taxes,~~ the department shall expend from the account provided for in 87-1-601(1)(b) UP TO  
6 ~~7% of the federal sporting goods excise tax revenue returned~~ AID IN SPORT FISH RESTORATION AND FEDERAL AID  
7 IN WILDLIFE RESTORATION PROGRAM FUNDS APPORTIONED annually to Montana for eligible tribal wildlife and fish  
8 management programs, as recommended by the tribal natural resources council created in [section 2].  
9 Money spent by the department pursuant to the recommendations of the tribal natural resources council  
10 for tribal wildlife and fish management programs must be expended FOR PUBLIC BENEFITS in conformity with  
11 all applicable federal ~~regulations~~ REQUIREMENTS and in the manner provided in [sections 1 through ~~5~~ 4].

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13        NEW SECTION. **Section 2. Tribal natural resources council created -- membership --**  
14 **purpose.** (1) There is a tribal natural resources council.  
15        (2) The tribal natural resources council comprises nine members, as follows:  
16        (a) one appointed by the tribal council of each of the seven tribes in Montana;  
17        (b) one indigenous, nonenrolled resident of a reservation, who shall reside continuously on a  
18 reservation during the term of office on the tribal natural resources council, to be chosen by the tribal  
19 members of the council; and  
20        (c) one member who is a representative of the department.  
21        (3) A tribal member may be a member of a tribe's natural resources committee.  
22        (4) Tribal natural resources council members shall serve voluntarily and without compensation.  
23        (5) The tribal natural resources council is created for the express purpose of:  
24        (a) ~~accepting state-funded~~ IDENTIFYING NEEDS FOR projects for tribal wildlife and fish management  
25 programs pursuant to [section 1]; AND  
26        (b) determining the ~~distribution~~ PRIORITY of projects for tribal wildlife and fish management  
27 programs pursuant to [section 3]; ~~and~~  
28 ~~—— (c) ensuring accountability for the projects pursuant to [sections 4 and 5].~~

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30        NEW SECTION. **Section 3. Tribal natural resources council -- powers and duties -- proportion of**

1 **distribution.** (1) The tribal natural resources council shall recommend projects for state funding pursuant  
2 to [section 1], on behalf of the tribes of Montana, and ~~decide what proportion of projects are distributed~~  
3 ESTABLISH PRIORITIES FOR DISTRIBUTION OF FUNDS to each tribe. The distribution must be based on:

4 ~~(1)(A)~~ (A) available funds and conformity with any applicable federal requirements regarding  
5 expenditure of the money;

6 ~~(2)(B)~~ (B) a list of management priorities developed by the tribal natural resources council after  
7 examining the wildlife and fish programs of each tribe; and

8 ~~(3)(C)~~ (C) immediate needs associated with the wildlife and fish management programs of each tribe,  
9 as indicated by the tribal natural resources council member from each tribe.

10 (2) THE TRIBAL NATURAL RESOURCES COUNCIL MAY EMPLOY A WILDLIFE BIOLOGIST TO ACT AS AN ADVISER AND  
11 COMPLIANCE INSPECTOR ON ALL TRIBAL WILDLIFE AND FISH MANAGEMENT PROGRAMS THAT ARE FUNDED PURSUANT TO  
12 [SECTIONS 1 THROUGH 4].

13 (3) [SECTIONS 1 THROUGH 4] IMPLY NO WAIVER OF TRIBAL SOVEREIGNTY.

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15 ~~NEW SECTION. Section 4. Accountability -- funds reserved exclusively for tribal use.~~ (1) The  
16 tribal natural resources council shall provide the department with an annual accounting report, by July 1  
17 of each year, outlining the distribution of projects for which money is spent pursuant to [section 1].

18 ~~(2) If the annual accounting is not submitted as required, the department may not spend any~~  
19 ~~additional money, as provided in [section 1], until a satisfactory accounting is made and the required report~~  
20 ~~is submitted. If expenditures are made by tribes during a year for any purposes other than tribal wildlife~~  
21 ~~and fish management programs, the department may not spend money pursuant to [section 1] during the~~  
22 ~~ensuing year.~~

23 ~~(3) Money spent pursuant to [section 1] is reserved for the exclusive use of the various Montana~~  
24 ~~tribes. The state may not attach any restrictions regarding use of the money by the tribes beyond the~~  
25 ~~requirements in the applicable federal law. The department shall, pursuant to its authority in 87-1-703 and~~  
26 ~~87-1-709, enter into any necessary cooperative agreements with the tribal natural resources council, as~~  
27 ~~the partnership representative of the individual tribes of Montana, for the purpose of carrying on tribal~~  
28 ~~wildlife and fish restoration programs.~~

29 ~~(4) Use of the money spent pursuant to [section 1] implies no waiver of tribal sovereignty.~~

1        NEW SECTION. **Section 4. Compliance and eligibility process.** ~~(1)~~ All ~~grant~~ activities and costs

2 of projects proposed by the tribal natural resources council AND THE DEPARTMENT must be submitted to the  
3 regional director of the United States fish and wildlife service for approval. Project documents must  
4 demonstrate compliance with all applicable federal laws and regulations. The tribal natural resources  
5 council ~~may~~ OR AN INDIVIDUAL TRIBE SHALL function as a subgrantee of the department ~~for funding purposes.~~  
6 All fish and wildlife management activities conducted by the tribal natural resources council OR AN  
7 INDIVIDUAL TRIBE must meet the same documentation requirements and other conditions as any other project  
8 submitted for funding under the federal aid program. Programs proposed for funding must conform to the  
9 eligibility process, project criteria, and compliance requirements for federal aid grants ~~as contained in the~~  
10 ~~federal aid handbook.~~

11 ~~———(2) The tribal natural resources council shall provide money as nonfederal matching funds to cover~~  
12 ~~the percentage of project costs that are not reimbursable under the federal aid program.~~

13 ~~———(3) The tribal natural resources council shall employ a certified public accountant to maintain~~  
14 ~~appropriate books and records related to the federal aid program and to prepare the annual accounting~~  
15 ~~report required in [section 4].~~

16 ~~———(4) The tribal natural resources council shall employ a wildlife biologist to act as a compliance~~  
17 ~~inspector on all tribal wildlife and fish management programs that are funded pursuant to the federal aid~~  
18 ~~program.~~

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20        NEW SECTION. **Section 5. Contingent voidness.** If a federal court determines that the  
21 implementation of [sections 1 through 5 4] would cause Montana to be ineligible to participate in federal  
22 aid in wildlife and sport fish restoration programs, then [this act] is void.

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24        NEW SECTION. **Section 6. Severability.** If a part of [this act] is invalid, all valid parts that are  
25 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its  
26 applications, the part remains in effect in all valid applications that are severable from the invalid  
27 applications.

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29        NEW SECTION. **Section 7. Notification to tribal governments.** The secretary of state shall send  
30 a copy of [this act] to each tribal government located on the seven Montana reservations.

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2        NEW SECTION. **Section 8. Codification instruction.** [Sections 1 through ~~5~~ 4] are intended to be  
3 codified as an integral part of Title 87, chapter 1, part 6, and the provisions of Title 87, chapter 1, part  
4 6, apply to [sections 1 through ~~5~~ 4].

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6        NEW SECTION. **Section 9. Effective date.** [This act] is effective July 1, 2001.

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